

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

WAVE NEUROSCIENCE, INC. a Delaware
Corporation,

Plaintiff,

vs.

BRAIN FREQUENCY LLC, a Texas Limited
Liability Company

Defendant.

Case No. 5:23-CV-00626-XR

Honorable: Xavier Rodriguez

**DECLARATION OF DEBORAH S.
MALLGRAVE IN SUPPORT OF
PLAINTIFF WAVE NEUROSCIENCE,
INC.'S OPPOSITION TO DEFENDANT
BRAIN FREQUENCY, LLC'S MOTION
FOR PARTIAL SUMMARY JUDGMENT
PURSUANT TO THE PHYSICIAN'S
IMMUNITY STATUTE**

DECLARATION OF DEBORAH S. MALLGRAVE

I, Deborah S. Mallgrave, hereby declare as follows:

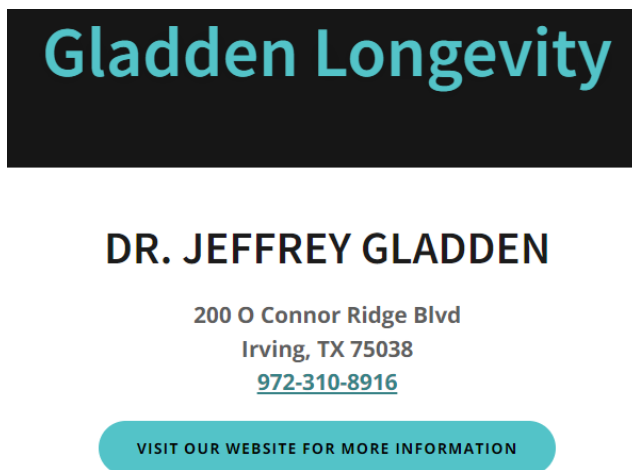
1. I am a member in good standing of the Bar of the State of California, and I have been admitted to this Court Pro Hac Vice. I am an attorney with the law firm Buchalter, a Professional Corporation, counsel of record for Plaintiff Wave Neuroscience, Inc. ("Wave").

2. I make this declaration in support of Wave's Opposition to Defendant Brain Frequency, LLC's Motion for Partial Summary Judgment Pursuant to the Physician's Immunity Statute. I have knowledge of the matters set forth herein, either as a direct participant in the matters described, or in my capacity as one of the attorneys responsible for the handling of this case. As to those matters, my knowledge is based upon my review of documents and files regularly maintained by Buchalter. If called and sworn as a witness, I could and would competently testify to the matters set forth herein.

3. On May 17, 2024, my office utilized a web capturing device, Page Vault, to preserve the landing page for the Gladden Longevity Podcast episode with Shannon Malish, "Is

this how you fix your brain once and for all?” from November 2022, as available on Spotify at <https://open.spotify.com/episode/1tYFdD61I7dN4nvD7YrKKK?si=ef34fadb30054a80&nd=1&dl=069aab8dd96a4b38>. A true and correct copy of the captured landing page is attached hereto as **Exhibit I**.

4. The following is a true and correct copy of a portion of Brain Frequency’s website, from <https://brainfrequency.ai/texas> (last visited May 17, 2024), showing Dr. Jeffrey Gladden and his company Gladden Longevity are a customer of Brain Frequency:



5. The following is a true and correct copy of a portion of Brain Frequency’s website, from <https://brainfrequency.ai/treatment-process> (last visited May 17, 2024), representing that Brain Frequency’s treatments use FDA approved equipment:



Begin Treatment:

Brain Frequency™ treatments will begin, using FDA Approved equipment, in a calm and safe setting. Low stimulating and relaxing videos are provided for maximum comfort.

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6. On February 9, 2024, Wave propounded its First Set of Requests for Production of Documents to Brain Frequency. Brain Frequency timely responded with written responses, but, to date, has not produced any documents responsive to those requests. Further, the parties have not engaged in any other meaningful discovery or begun taking depositions. Wave anticipates that discovery and the production of documents responsive to its requests could reveal additional facts to support Wave's opposition. Specifically, discovery could reveal additional facts related to Brain Frequency's business, the relationship between Brain Frequency and its customers and licensees, Brain Frequency's lack of engagement in medical activities, and Brain Frequency's commercialization of its software and the "approved" MagVenture TMS device it requires its licensees to use.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on May 17, 2024.

/s/ Deborah S. Mallgrave
Deborah S. Mallgrave

EXHIBIT I

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Podcast Episode

Is this how you fix your brain once and for all? - Episode 153

Gladden Longevity Podcast -- formerly Living Beyond 120

Nov 2022 · 1 hr 1 min

Episode Description

Join Dr. Jeffrey Gladden and Shannon Malish, the founder and CEO of Brain Frequency Center as they discuss this cutting-edge treatment. Shannon Malish is an LCSW-S and has a master's degree from the University of Texas-San Antonio in Social Work with an emphasis in addiction counseling. With a personal connection of losing her younger sister to anxiety and depression, Shannon began her Master's in Social Work, which ran 12 inpatient centers in 3 different states. Her dedication and passion for helping people heal by putting the patient first further spurred Mrs. Malish to open an inpatient/outpatient facility unlike any other in its specialties of trauma, drug addiction, and mental health. In this episode, they delve into the use of magnetic frequencies to help balance the brain; the big takeaway that there is another way to treat many disorders, and it is a much kinder way. Moving on, Shannon also mentions how durability is incredible, that people don't need to keep coming back and that there is a real solution to problems for some of the sickest people. Do you know that you don't need to wait to get the help you need? Do you know there is still hope and you can feel joy again? Listen to hear more.

Listen to this episode to learn about making a hundred, the new thirty, and living beyond 120!

Steve brings up using magnetic frequency to help balance the brain. (0:43)

Dr. Gladden shares how he met Shannon at a conference and reviews her profile. (0:50)

Dr. Gladden talks moving the mental health space from subjective to objective measurement. (2:05)

Shannon states that substance abuse is just a symptom of a mental health issue. (3:50)

Shannon goes over her experience, talking about her need for education. (5:18)

Dr. Gladden asks about going deeper into hammering the brain. (7:24)

Shannon explains what people experience with the hammering effect of the TMS. (9:21)

Shannon poses the question that drove her to this point: What happens when we balance the entire brain? (11:29)

Shannon talks about how they look at the response when their brain is firing, how it is firing, and their basic electrical signature. (14:50)

Shannon clarifies that if a person does not sleep well at night, they may not get a good read. (17:30)

Shannon elaborates on how they can see the patterns in the brain and reverse them. (19:39)

Shannon details how the EEG tells us how the brain functions. (21:27)

Shannon says a small group of people can get a slight headache after treatment. (23:25)

Shannon emphasizes that brain frequency treatment does not change your personality. (24:41)

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Speaking of Psychology

Transcranial magnetic stimulation (TMS) has been a treatment option for people with major depression since it was approved by the FDA in 2008. Today, it is also used to treat obsessive compulsive disorder and anxiety and for smoking...

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Exploring Mast Cell Activation Syndrome and Our Nervous System With Dr. Jaban Moore

Quiet the Diet

In this episode, Michelle sits down with Dr. Jaban Moore, a renowned functional dietitian and expert in holistic healing. Join them as they dive deep into the benefits of sound, light, and color therapy, and how when combined with EEG brai...

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Psychedelic Assisted EMDR Therapy with Hannah Raine-Smith and Jocelyn Rose

Psychedelic Medicine Podcast with Dr. Lynn Marie Morski

In this episode of the Psychedelic Medicine Podcast, Hannah Raine-Smith and Jocelyn Rose join to discuss the psychedelic assisted EMDR therapy. Hannah is an integrative psychotherapist and independent researcher specializing i...

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Ep. 045|Pain, The Brain & Emotional Learning| Melissa Farmer

Physiotutors Podcast

I speak with the amazing Dr Melissa Farmer, Clinical Psychologist, Neuroscientist, researcher, CCO & co founder of Aivo Health! Melissa and I talk about chronic pain and the influence that has on both the brain & body as well as what we can...

Sep 2022 · 1 hr 16 min

What is Brain Inflammation and Is It The Cause of Your Depression and Anxiety?: Episode Rerun

The Root Cause Medicine Podcast

In this episode of The Root Cause Medicine Podcast, we discuss neuropsychiatric symptoms, brain health, brain inflammation, head trauma, and neurodegenerative conditions. They dive into: 1. Inflammation Root Causes 2. Traumatic...

May 2024 · 1 hr 16 min

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